

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

October 3, 2006

CALL TO PODIUM:

Fred Felton
Assistant City Manager

RESPONSIBLE STAFF:

Fred Felton
Louise Kauffmann
Mary Boyle

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
X	Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	9-15-2006
	9-22-2006
Hearing Date	
Record Held Open	
Policy Discussion	

TITLE:

A Public Hearing On Two Alternate Ordinances to Amend Chapter 24 of the City Code Entitled "Zoning" So As to Create New Article XVI Entitled "Affordable Housing Requirements" So As To Require the Inclusion Of Moderately Priced Dwelling Units And Work Force Housing Units In New Residential Developments

SUPPORTING BACKGROUND:

The Mayor and City Council have held a series of work sessions and discussions on affordable housing issues since November 2005.

As determined during the August 14, 2006 work session, the Mayor and City Council have elected to move forward with considering an ordinance to establish the base developer requirements, and then adopt regulations pursuant to Section 2-10 of the City Code to fully implement the City's housing policy.

Many of the issues concerning the ordinance to require developers to construct Moderately Priced Dwelling Units (MPDU) and Workforce Housing Units (WHFU) have been discussed extensively during the work session process, and staff believes the Mayor and City Council have reached a consensus on most issues.

Both alternatives of the proposed ordinance would require developers that construct 20 or more for sale dwelling units to construct 7.5% MPDUs and 7.5% WFHUs in new developments and redevelopments.

Both alternatives of the proposed ordinance would require that developers that construct 20 or more rental units to construct and lease 15% of the units as MPDUs for a period of 30 years. Staff understands that the Mayor and City Council have not reached consensus on this issue, and the requirement could be modified during the hearing process to be 7.5% MPDUs and 7.5% WFHUs because such a modification would be less restrictive.

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DESIRED OUTCOME:

Hold public hearing. Staff recommends the Mayor and City Council hold the record open until 5:00 pm October 12, 2006 with policy discussion anticipated on October 16, 2006.

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SUPPORTING BACKGROUND CONTINUED:

Staff also recognizes that the Mayor and City Council has not reached the consensus on how Olde Towne should be treated. Therefore, two alternatives have been provided.

The only practical difference in the two alternative ordinances is how affordable housing in Olde Towne is addressed. Alternative #1 would treat developments in Olde Towne in the same manner as the rest of the City. Alternative #2 exempts developments in Olde Towne from constructing MPDUs and WFHUs but would require developers to pay a fee in lieu of constructing such units affordable housing to an affordable housing fund that would be used by the City to provide additional affordable housing opportunities throughout the City.

Please note that in addition to the two alternatives outlined above, the Mayor and City Council could choose to explore exempting Olde Towne completely during the public hearing process because it would be less restrictive.

Alternative #1

(Olde Towne Central Business District treated the same as other zones)

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE ENTITLED “ZONING” SO AS TO CREATE NEW ARTICLE XVI ENTITLED “AFFORDABLE HOUSING REQUIREMENTS” SO AS TO REQUIRE THE INCLUSION OF MODERATELY PRICED DWELLING UNITS AND WORK FORCE HOUSING UNITS IN NEW RESIDENTIAL DEVELOPMENTS

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that Chapter 24 of the City Code, (City Zoning Ordinance) is hereby amended to create New Article XVI entitled Affordable Housing Requirements, Section 24-248 through Section 24-255 to read as follows:

ARTICLE XVI: AFFORDABLE HOUSING REQUIREMENTS

Sec. 24-248. Purpose and intent.

It is the purpose and intent of this Article to ensure that affordable housing opportunities are created for both homeownership and rental units within the City of Gaithersburg for households earning 60 to 120 percent of Area Median Income.

Sec. 24-249. Definitions.

For the purposes of this Article, the following definitions shall apply:

AMI or area median income. The median income for the Washington Metropolitan Area, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development (HUD).

Approved sale price. Price at which a for-sale unit is determined to be affordable. For Moderately Priced Dwelling Units, the approved sales price will be affordable to households earning 70 percent of Area Median Income adjusted for household size. For Workforce Housing Units, the approved sales price will be affordable to households earning 90 percent of Area Median Income adjusted for household size.

Approved rental price. Price at which rental units are determined to be affordable. The approved rental price will be affordable to households earning 60 percent of Area Median Income adjusted for household size.

Affordable Housing Fund. A fund established to support the creation and maintenance of affordable housing in the City of Gaithersburg and to which payments will be made by developers in lieu of construction of units required but not built.

MPDU. Moderately Priced Dwelling Unit that is offered to eligible participants under the terms of the affordable housing program and is affordable to households earning at least sixty (60) percent of AMI, but not more than eighty (80) percent of AMI, adjusted for household size.

Undue Economic Hardship. the deprivation of any viable economic use of land.

WFHU. Work Force Housing Unit that is offered to eligible participants under the terms of the affordable housing program and is affordable to households earning at least eighty 80 percent of AMI, but no more than one hundred twenty (120) percent of AMI adjusted for household size.

Sec. 24-250.Applicability.

The requirements of this Chapter shall apply to any new residential development or redevelopment that includes 20 or more dwelling units. This article shall not apply to any residential development that has received Schematic Development Plan approval prior to the effective date of this ordinance. Additionally, this Article shall not apply to any property that is subject to an annexation agreement that provides for an affordable housing component.

Sec. 24-251. Requirement to build and sell affordable housing in for sale developments.

(a) Seven and one half (7.5) percent of the total dwelling units shall be developed and initially sold as Moderately Priced Dwelling Units (MPDU) at a price affordable to households earning 70 percent of Area Median Income adjusted for household size. The City Manager shall determine the approved sales price of MPDU units based on a pricing formula set forth in the Administrative Regulations adopted pursuant to Section 24-255 of this Article.

(b) Seven and one half (7.5) percent of the total dwelling units shall be developed and initially sold as Work Force Housing Units (WFHU) at a price affordable to households earning 90 percent of Area Median Income adjusted for household size. The City Manager shall determine the approved sales price of WFHU units based on a pricing formula set forth in the Administrative Regulations adopted pursuant to Section 24-255 of this Article.

(c) Upon a finding that MPDUs and WFHUs would not be affordable in a development due to high common ownership community fees, the Mayor and City Council may, by

Resolution, permit an applicant to contribute a fee to a City affordable housing fund rather than constructing the affordable units. This fee shall be calculated as the difference between the actual sales price and the actual cost of construction.

Sec. 24-252. Requirement to build and lease affordable housing in rental developments.

(a) Fifteen (15) percent of the total dwelling units shall be developed and maintained for a period of 30 years from the date of initial occupancy as Moderately Priced Dwelling Units (MPDU) at a rent affordable to households earning 60 percent of Area Median Income adjusted for household size. The City Manager shall determine, and revise annually, the approved rental price based on a formula set forth in the Administrative Regulations adopted pursuant to Section 24-255 of this Article.

(b) In the event the owner of any affordable rental housing units required by this section should convert the affordable units to condominiums, WFHUs and MPDUs shall be initially offered for sale at a price consistent with the requirements of Section 24-251.

Sec. 24-253. Materials, appearance, and distribution of affordable housing units.

Moderately Priced Dwelling Units and Work Force Housing Units shall be of the same appearance and use comparable exterior materials to the market rate units of the same unit type. Additionally, these units must be generally dispersed throughout the development.

Sec. 24-254. Waiver of affordable housing requirements.

(a) An applicant may make a formal written request that the requirements of this Article be waived, reduced, or adjusted, partially or in their entirety.

(b) The City Council may grant such a waiver or adjustment only upon a documented showing of:

- (1) Undue economic hardship on the part of the applicant in fulfilling the requirements of the law; or
- (2) The absence of a reasonable relationship or nexus between a proposed project and the provisions of this Article.

Sec. 24-255. Administrative regulations.

The City Council shall adopt regulations pursuant to Section 2-10 of this Code to implement this Article with respect to, but not limited to, administration, enforcement, pricing, eligibility requirements for purchasers and renters, control period for ownership units, procedures governing waiver requests, and resale restrictions.

ADOPTED this _____ day of _____, 2006 by the City Council of Gaithersburg, Maryland.

SIDNEY A. KATZ, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this _____ day of _____, 2006, APPROVED/VETOED by the Mayor of the City of Gaithersburg, Maryland, this _____ day of _____, 2006.

SIDNEY KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing ordinance was adopted by the City Council of Gaithersburg, in public meeting assemble, on the _____ day of _____, 2006 and that the same was approved/vetoed by the Mayor of the City of Gaithersburg on the _____ day of _____, 2006. This Ordinance will become effective on the _____ day of _____, 2006.

David B. Humpton, City Manager

Alternative #2
(Olde Towne treated differently than the other zones)

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE
ENTITLED “ZONING” SO AS TO CREATE NEW ARTICLE XVI
ENTITLED “AFFORDABLE HOUSING REQUIREMENTS” SO AS TO REQUIRE
THE INCLUSION OF MODERATELY PRICED DWELLING UNITS AND WORK
FORCE HOUSING UNITS IN NEW RESIDENTIAL DEVELOPMENTS

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that Chapter 24 of the City Code, (City Zoning Ordinance) is hereby amended to create New Article XVI entitled Affordable Housing Requirements, Section 24-248 through Section 24-256 to read as follows:

ARTICLE XVI: AFFORDABLE HOUSING REQUIREMENTS

Sec. 24-248. Purpose and intent.

It is the purpose and intent of this Article to ensure that affordable housing opportunities are created for both homeownership and rental units within the City of Gaithersburg for households earning 60 to 120 percent of Area Median Income.

Sec. 24-249. Definitions.

For the purposes of this Article, the following definitions shall apply:

AMI or Area Median Income: the median income for the Washington Metropolitan Area, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development (HUD).

Approved Sale Price: price at which a for-sale unit is determined to be affordable. For Moderately Priced Dwelling Units, the approved sales price will be affordable to households earning 70 percent of Area Median Income adjusted for household size. For Workforce Housing Units, the approved sales price will be affordable to households earning 90 percent of Area Median Income adjusted for household size.

Approved Rental Price: price at which rental units are determined to be affordable. The approved rental price will be affordable to households earning 60 percent of Area Median Income adjusted for household size.

Affordable Housing Fund: a fund established to support the creation and maintenance of affordable housing in the City of Gaithersburg and to which payments will be made by developers in lieu of construction of units required but not built.

MPDU: Moderately Priced Dwelling Unit that is offered to eligible participants under the terms of the affordable housing program and is affordable to households earning at least sixty (60) percent of AMI, but not more than eighty (80) percent of AMI, adjusted for household size.

Undue Economic Hardship: the deprivation of any viable economic use of land.

WFHU: Work Force Housing Unit that is offered to eligible participants under the terms of the affordable housing program and is affordable to households earning at least eighty 80 percent of AMI, but no more than one hundred twenty (120) percent of AMI adjusted for household size.

Sec. 24-250. Applicability.

Except as otherwise provided in Sec. 24-254, the requirements of this Chapter shall apply to any new residential development or redevelopment that includes 20 or more dwelling units. This article shall not apply to any residential development that has received Schematic Development Plan approval prior to the effective date of this ordinance. Additionally, this Article shall not apply to any property that is subject to an annexation agreement that provides for an affordable housing component.

Sec. 24-251. Requirement to build and sell affordable housing in for sale developments.

(a) Seven and one half (7.5) percent of the total dwelling units shall be developed and initially sold as Moderately Priced Dwelling Units (MPDU) at a price affordable to households earning 70 percent of Area Median Income adjusted for household size. The City Manager shall determine the approved sales price of MPDU units based on a pricing formula set forth in the Administrative Regulations adopted pursuant to Section 24-256 of this Article.

(b) Seven and one half (7.5) percent of the total dwelling units shall be developed and initially sold as Work Force Housing Units (WFHU) at a price affordable to households earning 90 percent of Area Median Income adjusted for household size. The City Manager shall determine the approved sales price of WFHU units based on a pricing formula set forth in the Administrative Regulations adopted pursuant to Section 24-256 of this Article.

(c) Upon a finding that MPDUs and WFHUs would not be affordable in a development due to high common ownership community fees, the Mayor and City Council may, by Resolution, permit an applicant to contribute a fee to a City affordable housing fund rather than constructing the affordable units. This fee shall be calculated as the difference between the actual sales price and the actual cost of construction.

Sec. 24-252. Requirement to build and lease affordable housing in rental developments.

(a) Fifteen (15) percent of the total dwelling units shall be developed and maintained for a period of 30 years from the date of initial occupancy as Moderately Priced Dwelling Units (MPDU) at a rent affordable to households earning 60 percent of Area Median Income adjusted for household size. The City Manager shall determine, and revise annually, the approved rental price based on a formula set forth in the Administrative Regulations adopted pursuant to Section 24-256 of this Article.

(b) In the event the owner of any affordable rental housing units required by this section should convert the affordable units to condominiums, WFHUs and MPDUs shall be initially offered for sale at a price consistent with the requirements of Section 24-251.

Sec. 24-253. Materials, appearance, and distribution of affordable housing units.

Moderately Priced Dwelling Units and Work Force Housing Units shall be of the same appearance and use comparable exterior materials to the market rate units of the same unit type. Additionally, these units must be generally dispersed throughout the development.

Sec. 24-254. Affordable housing requirements for developments in the Olde Towne Central Business District.

The requirements of Sec. 24-251, 24-252, and Sect. 24-253 shall not apply to residential construction in the Olde Towne Central Business District; however, developers shall be required to pay a per unit fee to a City affordable housing fund. This fee shall be determined by regulation pursuant to Sec.24-256 of this article.

Sec. 24-255. Waiver of affordable housing requirements.

(a) An applicant may make a formal written request that the requirements of this Article be waived, reduced, or adjusted, partially or in their entirety.

(b) The City Council may grant such a waiver or adjustment only upon a documented showing of

- (1) Undue economic hardship on the part of the applicant in fulfilling the requirements of the law; or
- (2) The absence of a reasonable relationship or nexus between a proposed project and the provisions of this Article.

Sec. 24-256. Administrative regulations.

The City Council shall adopt regulations pursuant to Section 2-10 of this Code to implement this Article with respect to, but not limited to, administration, enforcement, pricing, eligibility requirements for purchasers and renters, control period for ownership units, procedures governing waiver requests, and resale restrictions.

ADOPTED this _____ day of _____, 2006 by the City Council of Gaithersburg, Maryland.

SIDNEY A. KATZ, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this _____ day of _____, 2006, APPROVED/VETOED by the Mayor of the City of Gaithersburg, Maryland, this _____ day of _____, 2006.

SIDNEY KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing ordinance was adopted by the City Council of Gaithersburg, in public meeting assemble, on the _____ day of _____, 2006 and that the same was approved/vetoed by the Mayor of the City of Gaithersburg on the _____ day of _____, 2006. This Ordinance will become effective on the _____ day of _____, 2006.

David B. Humpton, City Manager